THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.26247 OF 2005

Dated: 08-12-2005

Between

Kommineni Venkata Narayana, S/o. Appayya, R/o. Kalakodima Village, Tallada Mandal, Khammam District.

...PETITIONER

AND

The Joint Collector (CS), Khammam at Khammam and others.

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the proceedings bearing No.C2/2846/2005 dated 30.11.2005 issued by the second respondent as illegal and arbitrary.

Learned counsel for the petitioner submits that petitioner is a fair price shop dealer of Kalakodima Village, Tallada Mandal, Khammam District since 1987 and his authorization is valid up to March 2006. He has been distributing the essential commodities without any complaint whatsoever. While so, the second respondent issued a show cause notice dated 30.11.2005 suspending the authorization of the petitioner until further orders pending enquiry, on certain charges. It is further submitted that suspending the authorization without there being any serious irregularities and without giving any notice is illegal and unsustainable.

It is further submitted that the allegations made against the petitioner are vague and not specific. Charge No.1 states that the petitioner has failed to distribute the rice allotted under Annapurna Scheme to five cardholders; Charge No.2 states that the petitioner is causing distribution of commodities through unauthorized measurements instead of weighment. However, the particulars of the cardholders have not been stated and the alleged unauthorized measurement is also not specified. Therefore, the allegations 1 and 2 are vague. Charge No.3 states that the petitioner has lifted altogether Q.969.65 Kgs of rice under PDS and other schemes for the month of November 2005 out of which he distributed so far Q.739.10 Kgs and the alleged variation is Q.1.49 Kgs, which is less than 1.5% variation permissible as per the instructions memo No.26776/CS.II/91-1 dated 07.05.1991. Charge No.4 states that the petitioner is having one rice mill near the fair price shop. It is stated that there is no allegation of misappropriation and the said allegations are not grave in nature.

As the allegations leveled against the petitioner are not grave and serious in nature and in the absence of any specific prohibition for having a rice mill and in fact, whether the petitioner is having a rice mill is a matter to be decided in the main proceedings and as the variation in stocks is within the permissible limits, the suspension order dated 30.11.2005 is set aside. However, the enquiry may go on pursuant to the show cause notice as the petitioner is yet to submit his explanation and final order may be passed in accordance with law after giving reasonable opportunity to the petitioner and till then the petitioner may be permitted to distribute the essential commodities.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

December 8, 2005

Note: Furnish C.C. of the order in two days.

(**B/O**)

DSK